

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA**

IN THE MATTER OF:)	Case No.: INS-2009-101
)	
RUSSELL MAX GRAHAM, individually and in his)	
capacity as a Montana Insurance Producer (License #)	CONSENT AGREEMENT AND
909991),)	FINAL ORDER
)	
Respondent.)	
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This Consent Agreement and Final Order (Agreement) is entered into between the Montana Insurance Department (Department), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, (Code), and Russell Max Graham, a Montana Insurance Producer (License # 909991) located at 1665 S. 59th Street W., Billings, MT 59106 (Respondent).

RECITALS

WHEREAS, on February 19, 2009, K.S. and M.S. filled out separate applications for individual health coverage and submitted them to the Respondent;

WHEREAS, on February 27, 2009, the Respondent filled out electronic applications for individual health coverage for K.S. and M.S. and submitted the applications to an insurer;

WHEREAS, the electronic applications for individual health coverage omitted or misrepresented information that was included in each handwritten application filled out by K.S. and M.S., respectively;

WHEREAS, the Department alleges that the Respondent violated Mont. Code Ann. § 33-1-1202(3) on two separate occasions by presenting to an insurer materially false or altered applications of insurance; and

WHEREAS, the Department and the Respondent agree that the best interests of the public would be served by entering into this Agreement.

NOW THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the Department and the Respondent hereby agree to settle this matter pursuant to the following terms and conditions:

STIPULATIONS AND CONSENTS

I. Without admitting or denying any of the Department's allegations, the Respondent stipulates and consents to the following:

A. The Respondent shall pay a \$10,000 fine, all of which is suspended except \$2,500.00, payable to the state of Montana. Respondent shall make monthly payments to the Department in the amount of \$208.33 payable by the 15th of every month beginning on March 15, 2010, and ending March 15, 2011.

B. The applicable statute of limitations within Mont. Code Ann. § 33-1-707 is tolled for a period of two years. Should Respondent violate any provision of this Agreement or the Code during the two year tolling, the Department will pursue suspension of Respondent's producer license and any other relief deemed necessary and just.

C. The Respondent fully and forever releases and discharges the Commissioner of Securities and Insurance (Commissioner), the Department, and all of the Department's employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement.

D. This Agreement is entered without adjudication of any issue, law or fact. It is entered into solely for the purpose of resolving the Department's investigation and allegations and is not intended to be used for any other purpose. For any person or entity not a party to this Agreement, this Agreement does not limit or create any private rights or remedies against the Respondent including, limit or create liability of Respondent, or limit or create defenses of Respondent, to any claims.

E. Upon execution of this Agreement, the Respondent acknowledges and waives his right to a hearing on the Department's allegations.

F. Upon execution of this Agreement, the Respondent acknowledges and waives his right to appeal the Commissioner's Final Order.

II. The Department and the Respondent agree and acknowledge:

A. This Agreement constitutes the entire agreement between the parties and that no other promises or agreements, either express or implied, have been made by the Department or by any member, officer, agent or representative of the Department to induce Respondent to enter into this Agreement.

B. This Agreement may not be modified orally and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

C. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein.

D. Upon execution of this Agreement, the Department will not commence an administrative action against the Respondent based upon the activities giving rise to the Department's investigation that occurred prior to the execution of this Agreement.

E. The Effective Date of this Agreement shall be the date when the Final Order is signed.

F. This Agreement and Final Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

INSURANCE DEPARTMENT

DATED this 25th day of February, 2010.

By: 

JESSE LASLOVICH
Attorney

RESPONDENT:

DATED this _____ day of February, 2010


RUSSELL MAX GRAHAM

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and §§ 33-1-101 *et seq.*, and upon review of the foregoing Consent Agreement and good cause appearing therefore,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the Department and the Respondent, Russell Max Graham (License # 909991), is adopted as if set forth fully herein.

DATED this 26 day of FEBRUARY, 2010.

MONICA J. LINDEEN
Commissioner of Securities and Insurance
Montana State Auditor

By: Robert W Moon
ROBERT W. MOON
Deputy Commissioner of Insurance

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this 26th day of FEBRUARY, 2010, a true and correct copy of the foregoing Consent Agreement and Final Order was served upon the following by hand delivery or by depositing the same in the United States mail postage paid and addressed as follows:

VIA USPS:

Mr. Russell Graham
1665 S. 59th Street W.
Billings, MT 59106

VIA HAND DELIVERY:

Jesse Laslovich, CSI Attorney

Susan Paulson-Davis